

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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ERNESTINE WELCH,

Plaintiff,

1:19-cv-0846 (BKS/DJS)

v.

BIO-REFERENCE LABORATORIES, INC., et al.,

Defendants.

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**Appearances:**

*Plaintiff, pro se*  
Ernestine Welch  
Hudson, NY 12534

**Hon. Brenda K. Sannes, United States District Judge:**

**MEMORANDUM-DECISION AND ORDER**

On July 16, 2019, Plaintiff pro se Ernestine Welch commenced this action by filing a complaint and a motion for leave to proceed *in forma pauperis*. (Dkt. Nos. 1, 2). This matter was referred to United States Magistrate Judge Daniel J. Stewart who, on October 1, 2019, issued a Report-Recommendation and Order recommending that Plaintiff's Complaint be dismissed, with leave to replead. (Dkt. No. 10). Magistrate Judge Stewart advised Plaintiff that, under 28 U.S.C. § 636(b)(1), she had 14 days within which to file written objections to the Report-Recommendation, and that the failure to object to the Report-Recommendation within 14 days would preclude appellate review. (*Id.* at 10). Plaintiff did not file objections to the Report-Recommendation. On October 15, 2019, she filed an Amended Complaint. (Dkt. No. 11).

As no objections to the Report-Recommendation have been filed, and the time for filing objections has expired, the Court reviews the Report-Recommendation for clear error. *See*

*Petersen v. Astrue*, 2 F. Supp. 3d 223, 228–29 (N.D.N.Y. 2012); Fed. R. Civ. P. 72(b) advisory committee’s note to 1983 amendment. Having reviewed the Report-Recommendation for clear error and found none, the Court adopts the Report-Recommendation in its entirety.

For these reasons, it is hereby

**ORDERED** that Magistrate Judge Stewart’s Report-Recommendation (Dkt. No. 10) is **ADOPTED**; and it is further


**ORDERED** that Plaintiff’s Complaint (Dkt. No. 1) is **DISMISSED without prejudice** under 28 U.S.C. § 1915(e)(2)(B) for failure to state a claim; and it is further

**ORDERED** that the Amended Complaint (Dkt. No. 11) is referred to Magistrate Judge Stewart for review under 28 U.S.C. § 1915(e); and it is further

**ORDERED** that the Clerk serve a copy of this Order on the Plaintiff in accordance with the Local Rules.

**IT IS SO ORDERED.**

Dated: November 19, 2019  
Syracuse, New York

  
Brenda K. Sannes  
U.S. District Judge